IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.4 OF 2007
IN
CRIMINAL APPEAL NO.1262 OF 2006

Pintya Alias Ashok Ravindra Pawar ...Applicant.
V/s.
The State of Maharashtra & Anr. ...Respondents.

Shri Kuldeep S. Patil, adv. for the Applicant.
Shri D.P.Adsule, APP for the Respondent No.1/State.

CORAM: J.H.BHATIA, J.
DATE : 23rd January, 2007.

P.C.:

1. Heard Mr.Kuldeep Patil, the learned counsel for the applicant and Mr.Adsule, the learned A.P.P. for the State.

2. The applicant was convicted for the offences punishable under Section 376 and was sentenced to undergo R.I. for 7 years and to pay a fine of Rs.20,000/-. He has preferred an appeal against the order of conviction and sentence and the appeal is already admitted. By this application, the applicant seeks to be released on bail pending the final hearing and disposal of the appeal.

3. Heard Mr.Kuldeep Patil, the learned counsel for the applicant and Mr.Adsule, the learned A.P.P. Perused

the relevant documents. It appears that the prosecutrix who was aged about 28 years was allegedly raped about 4 months prior to lodging of the report by her parents. Report was lodged after it was found that she was pregnant for about 4 months. It was alleged that she is mentally retarded but she used to do some household works like giving fodder to the cattles and bringing water from the well. It is a prosecution case that taking the benefit of her mental condition, the present applicant, who was a boy aged about 20 years, committed rape on her. Report of the Forensic Laboratory established that the foetus was fathered by the present applicant. Parents of the prosecutrix were examined but it appears that prosecutrix herself was not examined as a witness. There was no eye witness besides herself. Besides, DNA Test, there is no evidence to show that the present applicant had forcibly committed rape. Taking into consideration these circumstances, I find that it is a fit case to grant bail pending the final hearing and disposal of the appeal.

4. In view of the circumstances noted above, pending the final hearing and disposal of the appeal , the applicant is granted bail in the sum of Rs.25,000/- with one surety of like amount with the condition that he shall not misuse the bail and shall deposit the fine

amount.

(J.H.Bhatia,J.)